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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/738,050
Filing Date: December 15, 2000
Appellant(s): MORRISON ET AL.

Rick B. Yeager
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/15/2007 appealing from the Office action mailed 06/21/2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,240,410	Wilcal	05-2001
6,798,427	Suzuki et al.	09-2004
6,515,656	Wittenburg et al.	02-2003
Pub. No. US 2001/0000668	Bodnar	05-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-3, 5-16, 18-23, 37-40 and 42-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wical (U.S. Pat. No. 6,240,410) and Suzuki et al. (“Suzuki”, U.S. Pat. No. 6,798,427).

Per claim 1, Wical teaches a method for presenting a portion of a database, the method comprising steps of:

presenting a first tier of menu options, each menu option in the first tier of menu options representing a first collection of data objects corresponding thereto (figs. 2a and 2b; col. 2, lines 20-35; col. 10, lines 10-20); and

in response to a selecting of an menu option of the first tier to produce a selected first tier menu option, presenting a second tier of menu options, each menu option in the second tier of menu options representing a second collection of data objects, each data object in the second tier also belonging to the first collection of data objects corresponding to the selected first tier menu option (figs. 2a and 2b; col. 2, lines 20-35; col. 10, lines 34-36).

in response to a selecting of a menu option of the second tier to produce a selected second tier menu option, presenting a third tier of menu options, each menu option in the third tier of menu options representing a third collection of data objects each data object in the third tier also belonging to the second collection of data objects corresponding to the selected second tier menu option (see, fig. 2c; second tier option: “hard science and technology”; see, figs. 2c, third tier of options: “biology”, “electronic”, and “mathematic”); and in response to a selecting of a menu

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option of the third tier, displaying a page from electronic catalog database (see fig. 2c, a page from electronic catalog database is displayed in 310 when a option is selected).

Wical does not teach the hierarchical menu options are displayed as graphical tabs, continuing to present at least a portion of the first tier after the tab of the second tier is selected; and continuing to present at least a portion of the first tier and at least a portion of the second tier after the table of the third tier is selected. However, Suzuki teaches hierarchical menu options are displayed as graphical tabs (fig. 4; 1st level of tabs: INSTRUMENT; 2nd level of tabs: STATE; 3rd level of tabs: STYLE OF RENDITION; col. 9, lines 10-29), continuing to present at least a portion of the first tier after the tab of the second tier is selected (the 1st level of tabs (INSTRUMENT) is continued to display when a tab (Atack) of the 2nd level of tabs (STATE) is selected) and continuing to present at least a portion of the first tier and at least a portion of the second tier after the tab of the third tier is selected (fig 4; 1st level of tabs (INSTRUMENT), and the 2nd level of tabs (STATE) are continued to display when a tab (BndUP) of the of the thirist tier of tier is selected. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include the teaching of Suzuki in the invention of Wical in order to provide a visual presentation of all the hierarchical menu options at all levels of the hierarchical structure and to provide a visual presentation of the hierarchical relationship of all menu options at one level to another level (see fig. 4; and col. 25, lines 5-12).

Per claim 2, the modified Wical teaches the method of claim 1, wherein: the second tier of tabs is not visible until after the selecting of a tab of the first tier (Wilcal fig. 2a).

Per claim 3, the modified Wical teaches the method of Claim 1, wherein: the second tier of tabs is visible (Wical, fig. 2b).

Per claim 5, the modified Wical teaches the method of Claim 1, wherein the third tier of tabs is not visible until after the selecting of a tab of the second tier (Wical, fig. 2b).

Per claim 6, the modified Wical teaches the method of Claim 1, further comprising a step of:

in response to a selecting of a tab of the third tier to produce a selected third tier tab, presenting a fourth tier of tabs, each tab in the fourth tier of tabs representing a fourth collection of data objects, each data object in the fourth tier also belonging to the third collection of data objects corresponding to the selected third tier tab (Wical, figs. 2b and 2c); and in response to a selecting of a tab of the fourth tier, displaying a page from the electronic catalog database see fig. 2d, a page from electronic catalog database 310).

Per claim 7, the modified Wical teaches the method of Claim 1, wherein the electronic catalog database comprises a plurality of products (Wical, fig. 4b; col. 5, lines 28-40).

Per claim 8, the modified Wical teaches the method of Claim 1, wherein: the presenting the first tier of tabs includes executing a process in a first computer system and displaying the first tier of tabs on a display device of a second computer system and the selecting of a tab of the first tier to produce a selected first tier tab includes providing a selection of the selected first tier tab to the first computer system (Wical, col. 6, lines 1-12; network environment with remote access).

Per claim 9, the modified Wical teaches the method of Claim 1, wherein: after the selecting of the tab of the first tier to produce the selected first tier tab representing a first collection of data objects, and in response to a selecting of a subsequent tab of the first tier to produce a subsequent selected first tier tab, wherein the first tier includes both the selected first

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tier tab and the subsequent selected first tier tab, replacing the second tier of tabs with a subsequent second tier of tabs representing a fourth collection of data objects; and replacing the third tier of tabs with a subsequent third tier of tabs representing a fourth collection of data objects (Wilca, figs. 2a-2d; col. 10, lines 34-36; col. 11, lines 60-67).

Per claim 10, the modified Wical teaches the method of Claim 1, further comprising a step of: modifying a browser to perform the presenting the first tier of tabs (Wical, fig. 2a; col. 11, lines 61-67).

Per claim 11, the modified Wical teaches the method of Claim 1, further comprising: receiving a scroll input corresponding to at least one of the first tier and the second tier in response to receiving a scroll input, scrolling the corresponding at least one of the first tier and the second tier (Wical, figs. 2a-2c; scroll 320).

Per claim 12, the modified Wical teaches the method of Claim 1, wherein: at least one of the first tier and the second tier is horizontal (Wical, figs. 2a-2c; item 300 and 310).

Per claim 13, the modified Wical teaches the method of Claim 1, wherein: at least one of the first tier and the second tier is vertical (Wilca, figs. 2a-2c; item 300 and 310).

Per claim 14, the modified Wical teaches the method of Claim 1, wherein: at least one of the first tier and the second tier is horizontal and at least one of the first tier and the second tier is vertical (Wilca, figs. 2a-2c; item 300 and 310).

Per claim 15, the modified Wical teaches the method of Claim 1, wherein: the form representing the collection of records of tabs is visually scalable (Wical, col. 10, lines 48-55; contract and expand function).

Per claim 16, the modified Wical teaches the method of Claim 1, further comprising a step of: accessing the database over a network (Wical, fig. 10; col. 6, lines 9-11).

Per claim 18, the modified Wical teaches the method of Claim 16, wherein accessing the database includes reading a computer readable medium (Wical, col. 25, lines 36-50).

Per claim 19, the modified Wical teaches the method of Claim 16, wherein: accessing the database over a network includes accessing a first portion of the database over a network and a second portion of the database over a computer readable medium (Wical, col. 6, lines 9-14; col. 25, lines 44-25).

Per claim 20, the modified Wical teaches the method of Claim 16, further comprising: storing the portion of the database locally (Wical, col. 25, lines 48-51).

Per claim 21, the modified Wical teaches the method of Claim 1, comprising accepting a text input search request from a user, conducting a search and identifying at least one data object that satisfies the search request, and identifying at least one data object (Wical, fig. 9a; item 270; col. 23, lines 59-67);

determining a second tier of tabs associated with the data object (Wical, fig. 9a; second tier 540);

determining a first set of tabs associated with the data object (Wical, fig. 9a; first tier 760); and

displaying a representation of the data object along with the first set of tabs and the second set of tabs (Wical, figs. 2a and 2b).

Per claim 22, the modified Wical teaches the method of Claim 1, comprising presenting a graphic image on at least one of the first tier tabs (Wical, fig. 3a and 3b; col. 14, lines 8-30).

Per claim 23, the modified Wical teaches the method of Claim 1, comprising presenting a graphic image on at least one of the second tier tabs (Wical, fig. 3a and 3b; col. 14, lines 8-30).

Per claim 37, the modified Wical teaches the method of Claim 1, further comprising a step of: receiving an action from a form of selectable graphics images representing a collection records of the database (Wical, col. 14, lines 8-31).

Per claim 38, the modified Wilca teaches the method of Claim 37, wherein: the action is a text entry (Wical, fig. 9a; item 270; col. 23, lines 60-67).

Per claim 39, the modified Wical teaches the method of Claim 37, wherein: the action is a quantity (Wical, col. 12, lines 32-34; col. 13, lines 28-38).

Per claim 40, the modified Wical teaches the method of Claim 37, further comprising: in response to receiving an action, generating a record for subsequent action (Wical, fig. 2f; history 300).

Claim 42 is rejected under the same rationale as claim 1.

Per claim 43, the modified Wical teaches the method of Claim 42 comprising displaying a product display page (Wical, fig. 4c).

Per claim 44, the modified Wical teaches the method of Claim 42 comprising displaying an index page (col. 19, lines 29-48).

Claim 45 is rejected under the same rationale of claim 1 and 6.

Claims 17 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wical (U.S. Pat. No. 6,240,410), Suzuki et al. ("Suzuki", U.S. Pat. No. 6,798,427), and Wittenburg et al. ("Wittenburg", U.S. Pat. No. 6,515,656).

Per claim 17, the modified Wical teaches the method of Claim 16, but does not teach accessing the database over a network includes accessing the database over the Internet. However, Wittenburg teaches accessing the database over a network includes accessing the database over the Internet (fig. 1). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include the internet access as taught by Wittenburg in the invention of the modified Wical because it provides users with remote access to information over the WWW.

Per claim 41, the modified Wical teaches the method of Claim 37, but does not teach generating a purchase order in response to receiving the action. However, Wittenburg teaches generating a purchase order in response to receiving the action (fig. 10; online shopping). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include the online shopping as taught by Wittenburg in the invention of the modified Wical because it provides users with remote access to online shopping over the WWW.

Claims 27-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wical (U.S. Pat. No. 6,240,410) and Suzuki et al. ("Suzuki", U.S. Pat. No. 6,798,427), in view of Bodnar (U.S. 2001/0000668).

Per claim 27, Wical teaches a method for presenting an electronic office products catalog, the method comprising:

- assigning, for each office product, at least one product category name (fig. 2a; item 200);
- assigning, for each product category name an alphabetic menu option (fig. 6a; col. 20, lines 26-32);

assigning, for each office product, at least one page number of the electronic catalog where the office product will be displayed (figs. 2e and 2f; list function; col. 12, lines 32-34; col. 13, lines 28-39);

assigning, for each product category name, a set of page numbers corresponding to the pages of the electronic catalog at least one office product corresponding to the product category name will be displayed in the electronic office products catalog (figs. 2e and 2f; list function; col. 12, lines 32-34; col. 13, lines 28-39);

presenting a first tier of alphabetic menu options, each alphabetic menu option displaying at least one letter (fig. 6a; col. 20, lines 26-32);

in response to a selecting of an alphabetic menu option, presenting a second tier of product category name menu options, such that a product category name menu option is presented for each product category name (fig. 6b; col. 20, lines 34-46);

in response to a selecting of a product category name menu option, presenting a third tier of page number menu options, such that at least one page number menu option is presented for each product category name and in response to a selecting of a page number menu option, displaying the first page represented by the page number menu option (figs. 2e and 2f; list function; col. 12, lines 32-34; col. 13, lines 28-39).

Wical does not teach the hierarchical menu options are displayed as graphical tabs, continuing to present at least a portion of the first tier of alphabetic tabs after the product category name tab is selected; and continuing to present at least a portion of the first tier of alphabetic tabs and at least a portion second tier of product category name tabs after the page number tab is selected and assigning, for each product category name an alphabetic tab such that

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the tab corresponds to the first letter of the product category name and in response to a selecting of an alphabetic tab, presenting a tier of product category name tabs, such that a product category name tab is presented for each product category name beginning with the alphabetic letter of the selected alphabetic tab.

However, Suzuki teaches hierarchical menu options are displayed as graphical tabs (fig. 4; 1st level of tabs: INSTRUMENT; 2nd level of tabs: STATE; 3rd level of tabs: STYLE OF RENDITION; col. 9, lines 10-29), continuing to present at least a portion of the first tier after the tab of the second tier is selected (the 1st level of tabs (INSTRUMENT) is continued to display when a tab (Attack) of the 2nd level of tabs (STATE) is selected) and continuing to present at least a portion of the first tier and at least a portion of the second tier after the tab of the third tier is selected (fig 4; 1st level of tabs (INSTRUMENT), and the 2nd level of tabs (STATE) are continued to display when a tab (BndUP) of the of the thirist tier of tier is selected.

Bodnar teaches assigning, for each product category name an alphabetic tab such that the tab corresponds to the first letter of the product category name and in response to a selecting of an alphabetic tab, presenting a tier of product category name tabs, such that a product category name tab is presented for each product category name beginning with the alphabetic letter of the selected alphabetic tab. (figs. 8E and 8F; [0084]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include the alphabetic tab as taught by Suzuki and Bodnar in the invention of Wical in order to in order to provide a visual presentation of all the hierarchical menu options at all levels of the hierarchical structure and to provide a visual presentation of the hierarchical relationship of all menu options at one level to another level (see fig. 4; and col. 25, lines 5-12).

and in order to provide users with a methodology for dynamically adjusting tab categories and subcategories.

Per claim 28, the modified Wical teaches the method of claim 27 comprising scrolling at least one of the alphabetic, product name, or page number tabs (Wical, fig. 2a-2f; scroll 320).

Per claim 29, the modified Wical teaches the method of claim 27 comprising in response to a selecting of a product category name tab, presenting a third tier of product sub-category name tabs such that at least one sub-category name tab is presented for each product category name (Wical, figs. 2e and 2f; list function; col. 12, lines 32-34; col. 13, lines 28-39);

in response to a selecting of a product sub-category name tab, presenting a fourth tier of page number tabs, such that at least one page number tab is presented for each sub-product category name and in response to a selecting of a page tab, displaying the first page represented by the page number tab (figs. 2e and 2f; list function; col. 12, lines 32-34; col. 13, lines 28-39).

Per claim 30, the modified Wilca teaches the method of claim 27 comprising accessing the electronic office products catalog over a network (Wical, fig. 10; col. 6, lines 9-11).

Per claim 31, the modified Wilca teaches the method of claim 27 comprising storing the portion of the database locally Wical, (col. 5, lines 48-51).

(10) Response to Argument

Appellant's primary argument is that "the combination Wical and Suzuki is not obvious to one of ordinary skill in the art."

The examiner does not agree for the following reasons:

Wical teaches a graphical user interface for displaying information data in a hierarchical structure that includes a plurality of hierarchical levels based on predefined categories of the information data (col. 2, lines 24-30).

Suzuki similarly also teaches a graphical user interface for displaying information data in a hierarchical structure that includes a plurality of hierarchical levels based on predefined categories of the information data (fig. 4; fig. 4; 1st level of tabs: INSTRUMENT category; 2nd level of tabs: STATE category; 3rd level of tabs: STYLE OF RENDITION category; col. 9, lines 10-29).

In Wical, only a particular path for the hierarchical structure from the highest hierarchical level to a currently selected hierarchical level is displayed to the user (see figs. 2a-2c; element 300; see col. 12, lines 17-20).

However in Suzuki, all menu options from the highest hierarchical level to a currently selected hierarchical level are displayed to the user (see fig. 4; col. 9, lines 9-22; col. 25, lines 5-12).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the graphical tabs as taught by Suzuki in the invention of Wical in order to provide a visual presentation of all menu options at all levels of the hierarchical structure and to provide a visual presentation of the hierarchical relationship of all menu options at one level to another level (see fig. 4; col. 9, lines 9-22 and col. 25, lines 5-12).

As for claims 1-3, 7, 9, 12, 14, 15, 37-40, 42-44, and 45, the appellant generally alleges Wilcal does not teach the limitations defined in claims 1, 3, 7, 9, 12, 14, 15, 37-40, 42-44, and

45. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Per claim 1, Wical teaches presenting a first tier of menu options, each menu option in the first tier of menu options representing a first collection of data objects corresponding thereto (figs. 2a and 2b; col. 2, lines 20-35; col. 10, lines 10-20); and

in response to a selecting of an menu option of the first tier to produce a selected first tier menu option, presenting a second tier of menu options, each menu option in the second tier of menu options representing a second collection of data objects, each data object in the second tier also belonging to the first collection of data objects corresponding to the selected first tier menu option (figs. 2a and 2b; col. 2, lines 20-35; col. 10, lines 34-36).

in response to a selecting of a menu option of the second tier to produce a selected second tier menu option, presenting a third tier of menu options, each menu option in the third tier of menu options representing a third collection of data objects each data object in the third tier also belonging to the second collection of data objects corresponding to the selected second tier menu option (see, fig. 2c; *second tier option: "hard science and technology"*; see, figs. 2c, *third tier of options: "biology", "electronic", and "mathematic"*); and in response to a selecting of a menu option of the third tier, displaying a page from electronic catalog database (see fig. 2c, *a page from electronic catalog database is displayed in 310 when a option is selected*).

Suzuki teaches hierarchical menu options are displayed as graphical tabs (fig. 4; *1st level of tabs*: INSTRUMENT; *2nd level of tabs*: STATE; *3rd level of tabs*: STYLE OF RENDITION; col. 9, lines 10-29.)

Accordingly, the combination of Wical and Suzuki teach the claim limitation as required by claim 1.

Per claim 3, Wical and Suzuki teach the second tier of tabs is visible (Wical, *fig. 2b shows a second tier of menu options is visible*; Suzuki teaches hierarchical menu options are displayed as graphical tabs (see, fig. 4 of Suzuki)).

Per claim 7, Wical teaches the electronic catalog database comprises a plurality of products (Wical, fig. 4b; col. 5, lines 28-40; *which shows a virtual book shelf with different book products*).

Per claim 9, Wical and Suzuki teaches replacing the second tier of tabs with a subsequent second tier of tabs representing a fourth collection of data objects; and replacing the third tier of tabs with a subsequent third tier of tabs representing a fourth collection of data objects (Wical, figs. 2a-2d; col. 10, lines 34-36; col. 11, lines 60-67; Suzuki teaches hierarchical menu options are displayed as graphical tabs (see, fig. 4 of Suzuki)).

Per claims 12 and 14, Wical and Suzuki teach at least one of the first tier and the second tier is horizontal (Wical, figs. 2a-2c; item 300 and 310; Fig. 4 of Suzuki); and at least one of the first tier and the second tier is horizontal and at least one of the first tier and the second tier is vertical (Wical, figs. 2a-2c; item 300 and 310; Fig. 4 of Suzuki).

Per claim 15, Wical and Suzuki teach the form representing the collection of records of tabs is visually scalable (Wical, col. 10, lines 48-55; *contract and expand function allows a*

succession or progression of hierarchical level of menu options (i.e. information is visually scalable); *Suzuki teaches hierarchical menu options are displayed as graphical tabs* (see, fig. 4 of Suzuki)).

Per claim 37, Wical teaches receiving an action from a form of selectable graphics images representing a collection records of the database (Col. 14, lines 8-31).

Per claim 38, Wilca teaches the action is a text entry (Wical, fig. 9a; item 270; col. 23, lines 60-67).

Per claim 39, Wical teaches the action is a quantity (Wical, col. 12, lines 32-34; col. 13, lines 28-38).

Per claim 40, Wical teaches in response to receiving an action, generating a record for subsequent action (Wical, fig. 2f; history 300).

Claim 42 is rejected under the same rationale as claim 1. Wical further teaches a method of presenting a plurality of electronic catalogs on a computer workstation (col. 5, lines 7-10 and lines 28-44; *which shows electronic catalogs of books*).

Per claim 43, the modified Wical teaches the method of Claim 42 comprising displaying a product display page (Wical, fig. 4c; col. 5, lines 28-40; *which shows a virtual book shelf with different book products*).

Per claim 44, the modified Wical teaches the method of Claim 42 comprising displaying an index page (col. 19, lines 29-48; *index information*).

Claims 45 is rejected under the same rationale in claims 1 and 6 as explained above.

Claims 17 and 41, In response to appellant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by

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combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, It would have been obvious to one of ordinary skill in the art at the time of the invention to include the internet access as taught by Wittenburg in the invention of the modified Wical because it provides users with remote access to information over the WWW.

Claims 27-31, the appellant argues that “Bodnar does not teach multiple levels of tabs related to catalogs of products”, and “Neither Wilcal or Bodnar teaches displaying the first page represented by the page number tab.” In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this case, Wical teaches multiple levels of catalogs of products (col. 5, lines 15-44; *hierarchical levels of catalogs of book products*). Suzuki teaches hierarchical menu options are displayed as graphical tabs (see, fig. 4 of Suzuki).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Thanh T. Vu/

Examiner, Art Unit 2174

Conferees:

/SY D. LUU/

Primary Examiner, Art Unit 2174

/David A Wiley/

Supervisory Patent Examiner, Art Unit 2174